

REMARKS/ARGUMENTS

As the Examiner will recall, the present application was filed to provoke an interference with Jorne U.S. Patent No. 6,132,587, which issued October 17, 2000. Claims 35, 36, 37 and 38 presented in the preliminary amendment in this application correspond to Jorne patent claims 1, 2, 5 and 19, respectively. The Examiner rejected claim 35 under 35 U.S.C. § 112 and the remaining claims over prior art.

First of all, in addressing the Examiner's rejection of claim 35, applicants note that the Examiner has taken the position that the present specification is enabling for a diffusion plate generally but does not provide enablement for a diffusion plate which is "non-conducting". Applicants submit that the Examiner's interpretation of the specification on that score is incorrect, and respectfully request the Examiner to reconsider his position.

The present specification, as the Examiner observes, describes in, for example, the Fig. 8 embodiment, an electroplating bowl assembly 303 which includes, among other things, a diffusion plate 375. The specification, particularly on pages 20 and 21, describes the electroplating bowl assembly including its components as shown in Fig. 8 as made from "polypropylene or other suitable material" (specification, page 20, line 14). In examining Fig. 8, the Examiner will observe that the same cross hatching as is used for the electroplating bowl assembly 303 is likewise used in describing the diffusion plate 375. That constitutes, applicants submit, an unmistakably clear teaching that the electroplating bowl assembly 303 and the diffusion plate 375 are made from the

same material, namely polypropylene as one example. And, of course, polypropylene, as the Examiner is well aware, is a non-conductive or dielectric material. Based on that teaching alone, applicants believe that the present specification does indeed enable the use of a diffusion plate 375 formed of a dielectric or non-conducting material.

That point is further confirmed by the description on page 22 where the specification describes anode shields 393 and anode shield fasteners 294 as also made from a dielectric material such as polypropylene. Once again, the cross hatching in Fig. 8 for both components is the same, constituting a teachings that the diffusion plate 375 and the anode shield fasteners 393 and 394 are also formed of a dielectric material. Indeed, there is nothing anywhere in the specification that would suggest that the diffusion plate is anything other than a dielectric material.

Moreover, diffusion plates have been used in the prior art for some time. And that prior art generally recognizes that diffusion plates, to control the distribution of both the liquid flow and the current flux, are formed from dielectric or non-conductive material. A case in point is U.S. Patent No. 6,585,876, a copy of which is enclosed for the Examiner's convenience. In column 2, lines 8 et seq, the patentees describe the use of diffusers to promote uniformity of flow across the width of a semiconductor wafer, describing such diffusers as formed of a plastic material. Thus, the prior art is entirely consistent with and confirms the specification teaching that the components of the bowl assembly are typically formed of dielectric materials.

Under these circumstances, applicants submit that the present specification, when viewed with the knowledge of the art, fairly teaches diffusers which are formed of a non-conducting or dielectric material. Therefore, applicants fairly support claim 35 of the present application. Since that claim should be allowable to applicants, the Examiner should proceed to declare an interference between the present application and the Jorne patent, at least respecting the subject matter of patent claim 1 of the Jorne patent, of record in the present application as claim 35.

The Examiner rejected the remaining claims over the prior art. Claim 36 and 37 were rejected as unpatentable over the combination of Ishida in view of Lytle. As a preliminary matter, applicants note that both prior art references were of record during the prosecution of the Jorne patent and the claims were found patentable over that prior art. Applicants agree with the Examiner's position respecting claims 36 and 37, namely that those claims do not patentably distinguish over the combination of Ishida in view of Lytle. If, however, the Patent Office were to take a different view, then applicants submit that those two claims also should be made the subject of an interference.


To assist the Examiner in the resolution of this issue, applicants intend to submit, for the Examiner's consideration, an ex parte request for reexamination of the Jorne patent dealing with, among other things, claims 36 and 37. Quite obviously, the Examiner must either determine that claims 2 and 5 of the Jorne patent are unpatentable over the prior art applied in this application or the Examiner must declare an interference between the present application and the Jorne patent respecting the subject matter of claims 36 and 37.

The Examiner also rejected claim 38 of the present application, which is the same as claim 19 of the Jorne patent. The Examiner concluded that claim 38 of the present application is unpatentable over the Pearson prior art patent cited in paragraph 5 of the outstanding Office Action. The Pearson patent was not cited, so far as applicants are aware, during the prosecution of the Jorne patent. Nonetheless, to enable the Examiner to determine whether the subject matter of claim 38 is patentable over the prior art, applicants will include, in their request for reexamination, the subject matter of claim 19 as well. Once again, the Examiner will need to determine whether claim 38 patentably distinguishes over the Pearson reference, as applicants are inclined to think it does.

In view of the foregoing, the Examiner is respectfully requested to reconsider his rejection of claim 35 under § 112. Applicants fairly suggest, when the present specification and drawings are viewed as a whole, that applicants are using a conventional diffusion plate -- a plate which by definition is non-conductive. The PTO can thus declare the interference; patentability issues raised with respect to the other claims can be resolved in an inter partes context during the interference proceeding. An early declaration of the interference is therefore respectfully requested.

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